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In re Application of MONSALVATJE LLAGOSTERA,
Montserrat, et al.

U.S. Application No.: 09/424,673

PCT No.: PCT/ES98/00145

International Filing Date: 25 May 1998

Priority Date: 29 May 1997

Attorney's Docket No.: U 012500-4

For: PROCESS FOR OBTAINING QUINAPRIL
HYDROCHLORIDE AND SOLVATES USEFUL FOR
ISOLATING AND PURIFYING QUINAPRIL
HYDROCHLORIDE

DECISION

This decision is issued in response to applicants' "Response To Decision On Renewed Petition Under 37 CFR 1.47(a)" filed on 15 January 2002.

BACKGROUND

The procedural background of this national stage application is set forth in detail in the three earlier Decisions which have been issued by this Office with respect to this ongoing petition. Briefly restated, applicants have sought to have this application accepted under 37 CFR 1.47(a) without a declaration executed by all four co-inventors. Specifically, applicants have sought acceptance of the application without the signature of co-inventor Salvador Puig Torres. The earlier petitions were dismissed without prejudice for failing to satisfy all the requirements of a grantable petition under 37 CFR 1.47(a).

On 15 January 2002, applicants filed the "Response To Decision On Renewed Petition Under 37 CFR 1.47(a)" considered herein. This Response was accompanied by a copy of the declaration which has been executed by Salvador Puig Torres. Applicants have therefore now obtained the signature of all four co-inventors.

DISCUSSION

A. Timeliness Of The Response

The most recent decision in this application was mailed on 26 July 2001. The decision stated that a proper response was due within two months, that is, on or before 26 September 2001.

The Response considered herein was not received until 15 January 2002; however, it contains a certification under 37 CFR 1.8 stating that the materials were deposited with the US Postal Service as first class mail, properly addressed, on 18 December 2001. Accordingly, for purposes of determining whether these materials were timely, the materials are considered to have been submitted on 18 December 2001.

The Response included a petition and payment for a three month extension. Based on this extension of time, the present Response is considered timely.

B. Submission of Declaration Executed By All Inventors

As applicants note, because all the co-inventors have signed the declaration, there is no longer a need for this application to be accepted under 37 CFR 1.47.

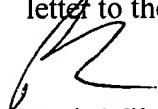
However, a review of the declaration submitted with the Response (executed by Salvador Puig Torres) reveals that it is not in compliance with the requirements of 37 CFR 1.497(a) and (b). Specifically, the executed declaration does not set forth Mr. Puig Torres' country of citizenship, residence, or post office address. Accordingly, the declaration cannot be accepted in its present form.

CONCLUSION


Applicants' submission of a declaration executed by the previously nonsigning inventor is a proper reply to the decision mailed 26 July 2001. However, applicants still have not submitted a satisfactory oath or declaration of the inventors.

Applicants are given **ONE (1) MONTH** from the mail date of this decision to submit a new oath or declaration executed by Salvador Puig Torres that satisfies the requirements of 37 CFR 1.497(a) and (b). Failure to provide a timely and proper response will result in abandonment. Extensions of time are available under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the International Division, Legal Staff.


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